

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

*Plaintiffs,*

vs.

GOOGLE LLC,

*Defendant.*

No. 1:23-cv-00108-LMB-JFA

**GOOGLE LLC’S RESPONSE TO THE COURT’S  
ORDER ON PLAINTIFFS’ MOTION TO COMPEL**

On June 23, 2023, the Court issued an order (ECF. No. 274) on Plaintiffs’ Motion to Compel and for *in camera* inspection (ECF No. 214) (“Motion”). After reviewing *in camera* an unredacted version of Document No. 7 at issue in Plaintiffs’ Motion, the Court concluded that Google had properly redacted for privilege all but one of the redacted comments. As for the remaining redacted comment, made on July 20, 2020 at 15:17:46 on page GOOG-DOJ-AT-01139590, the Court stated that it was “unclear what, if any, legal analysis or information relating to any legal analysis is contained in that comment” and that “the information in the redacted portion does not, on its face, appear to be related to a legal issue.” ECF No. 274 at 2-3. The Court further stated that, “[p]rior to requiring that an unredacted version of page 01139590 be produced to plaintiffs,” it would allow Google “to closely review the information contained in this redaction and if it feels that the court has overlooked the significance of the information contained in that comment, it may provide an explanation to the court for further consideration.” *Id.* at 3. Having closely re-reviewed the comment, Google respectfully submits that it consists of a Google in-house attorney’s legal advice regarding contract terms.

The comment in question is part of a string of comments among Google in-house lawyers and non-lawyers discussing terms used in certain Google contracts. As part of that string, at 11:57:47 on July 20, 2020, a Google Product Counsel began his comment by stating that he deferred to two other Google in-house lawyers (the first identified by first name and the second identified by email address) because those lawyers were closer to the contracts in question. In the second sentence of his 11:57:47 comment, the Product Counsel asked the second lawyer—a Google Commercial Counsel, identified now by first name rather than email address—to look into the issue, because the first lawyer was out of office that day. The Google Commercial Counsel responded with the 15:17:46 comment at issue, addressing the Product Counsel by a shortened form of his first name before providing the response that the Product Counsel had requested in the 11:57:47 comment. The Commercial Counsel advised the Product Counsel and the non-lawyer Google employees on the comment thread what the terms of the contracts at issue are, how and when they are used, and what they mean. In subparts 2 and 3 of his response, he called out by email address the first attorney named in the first sentence of the Product Counsel’s 11:57:47 comment, in case she had additional advice regarding the contract terms. Google therefore respectfully submits that the comment in question is a privileged attorney-client communication. *See, e.g., NLRB v. Interbake Foods, LLC*, 637 F.3d 492, 502 (4th Cir. 2011) (privilege applies to confidential communications between lawyer and client “for the purpose of securing primarily either (i) *an opinion on law* or (ii) legal services or (iii) assistance in some legal proceeding” (emphasis added)).

Accordingly, Google respectfully submits that the comment should remain redacted.

Dated: June 26, 2023

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